92-1230

NO.

Supreme Court, U.S.
FILED
JAN 19 1993
OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1992

JOHN S. TRINSEY, JR.

Petitioner

versus

Joyce Hazeltine,
Secretary of State of South Dakota,
State of South Dakota,
South Dakota State Republican Party
the South Dakota Party,
and Don Peterson,
Chairman of the South Dakota State
Republican Party and the
South Dakota Republican Central Committee,

PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEAL FOR
THE EIGHTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

John S. Trinsey, Jr.
169 Providence Forge Road
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Petitioner Proceeding Pro Se

QUESTIONS PRESENTED FOR REVIEW

1. Is it not unconstitutional for 49 States, except New Hampshire, but including the District of Columbia and Guam to require rank and file members of the Republican Party (and Democratic Party) to be rich, that is having at least $5,000. Cash to spend in each State, a total of $255,000. to access Presidential Primary Ballots?

2. Is it not unconstitutional for 49 States, except New Hampshire, but including the District of Columbia and Guam to set impossible, conflicting dates, terms and conditions for Republican and Democratic Party Members to seek access to Presidential Primary Ballots?

3. Should not all States' Presidential Primary Ballot access schemes be uniform so as to give rank and file Party Members with less than $255,000. Cash to spend a fair,

equal and reasonable access to the States Presidential Primary Ballots?

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LIST OF INTERESTED PARTIES

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JURISDICTION

DISTRICT COURT

1. In the United States District Court for the District of South Dakota, Central Division, at Civil Action No. 91-2749.

The district court had jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343 (1988).

LOWER COURT

2. In the United States Court of Appeals for the Eighth Circuit at No. 91-1394SDSF.

This court has jurisdiction over the appeal from the final decision of the district court issuing a judgment pursuant to 28 U.S.C. § 1291 (1988).

HIGH COURT

3. Before the Supreme Court of the United States pursuant to 28 U.S.C. § 1254(1).

OPINIONS AND ORDERS BELOW TO BE REVIEWED

Lower Court

1. The Judgment dated September 2, 1992 and the mandate issued October 28, 1992 by the United States Court of Appeals for the Eighth Circuit affirming the Judgment of the District Court and the mandate issued on October 28, 1993. (App. "B", page _____)

2. The Order of Court United States Court of Appeals for the Eighth circuit dated October 21, 1992 denying the suggestion for rehearing en banc is denied. The Petition for Rehearing is also denied. (App. "A", page _____)

3. The Transcript of Hearing and Bench Opinion and Order of the United States District Court for the District of South Dakota, Southern Division filed February 19, 1992. (App. "C", page _____)

STATEMENT OF THE CASE

Petitioner Jack Trinsey, a member of the Republican Party who had voted for some 32 consecutive years sought the Presidential Nomination of the Republican Party in Campaign '92.

Petitioner paid a $1,000. as a fee and entered the New Hampshire '92 Republican Presidential Primary.

Petitioner planned to enter a number of Primaries hopefully to gain support or drop out failing that support.

The second in the Nation Primary was South Dakota and Petitioner attempted to enter same but was denied for the reasons set forth in the District Court Hearing Transcript, which basically, as Petitioner saw it, because he was not rich, that he had to have $5,000. to spend in South Dakota to comply with their Presidential Primary Ballot access scheme.

With 48 more States to go plus District of Columbia and Guam Petitioner was required to spend at least another $5,000. in each State, a total of $255,000.

Petitioner does not have $225,000. to spend on a Presidential Nomination Ballot access program and sought to strike down South Dakota's Presidential Primary Ballot access scheme along with the balance of the States.

Petitioner did sue all other States in a related case which is discontinued because it is easier to settle the issue here for judicial economy although this matter perhaps should be remanded back to the Lower Court so that Petitioner could add all other States so that the issue might be determined once and for all.

That issue is, are only rich Members of the Republican and Democratic Party to be given an equal opportunity to access

Republican and Democratic Party Presidential Primary access ballots?

Petitioner argues no, that the vast numbers of the rank and file Members of the Republican and Democratic Party should be given access to the States Party Presidential Primary Ballots without having to be rich.

That is Petitioner Jack Trinsey's case pure and simple. He was wrongfully denied access to Campaign '92 Presidential Republican Primary System because he was not rich. Jack Trinsey is attempting hereby to do his best to see that injustice does not happen to him or any other rank and file Republican or Democratic Primary Party Member in Presidential Campaign '96.

ARGUMENT

Petitioner for his argument relies on the record in the District Court, App. __ page _____.

CONCLUSION

For the foregoing reasons Petitioner respectfully requests that his Petition for Writ of Certiorari to the United States Court of Appeals be granted to review and properly Rule this case for the furtherance of justice and the preservation of the Constitution of the United States and voter rights thereof.

This 18th day of January, 1993.

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APPENDIX I

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 92-1394SDSF

Jack Trinsey, also known as John S. Trinsey, Jr.	*
Appellant,	* Order Denying Petition for Rehearing and Suggestion for Rehearing En Banc
vs.	*
Joyce Hazeltine, Secretary of State of South Dakota; et al,	*
Appellees.	*

The suggestion for rehearing en banc is denied. The petition for rehearing is also denied.

October 21, 1992

Order Entered at the Direction of the Court:

/s
Michael E. Gens
Clerk, U.S. Court Appeals,
Eighth Circuit

APPENDIX II

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 92-1394SDSF

Jack Trinsey, also known as John S. Trinsey,	*	
Appellant,	*	Appeal from the
	*	United States
vs.	*	District Court
	*	for the District
Joyce Hazeltine, Secretary of State of South Dakota; State of South Dakota; South Dakota State Republican Party; Don Peterson, Chairman of the South Dakota State Republican Party; South Dakota Republican Central Committee,	*	of South Dakota
Appellees.	*	

JUDGMENT

This appeal from the United States District Court was submitted on the record of the district court and briefs of the parties.

After consideration, it is hereby ordered and adjudged that the judgment of the district court in this cause is affirmed

in accordance with the opinion of this Court.

September 2, 1992

A true copy.

Attest: /s
Michael E. Gens

CLERK, U.S. COURT OF APPEALS,
EIGHTH CIRCUIT

MANDATE ISSUED, October 28, 1992

APPENDIX 111

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

* *

Jack Trinsey, a/k/a John S. Trinsey, Jr.,	* Civ. 92-3005
Plaintiff	*
-vs-	* HEARING
Joyce Hazeltine, Secretary of State of South Dakota, State of South Dakota, South Dakota State Republican the South Dakota Party, and Don Peterson, Chairman of the South Dakota State Republican Party and the South Dakota Republican Central Committee,	*
Defendants.	*

* *

BEFORE: The Honorable John B. Jones
United States District Judge
For the District of South Dakota
Sioux Falls, South Dakota

APPEARANCES: Mr. John S. Trinsey
Royersford, Pennsylvania

Appearing Pro Se.
Ms. Sherri Sundem-Wald
Mr. Charles McGuigan
Assistant Attorneys General
Pierre, South Dakota

Attorneys for Defendants Hazeltine and the State of South Dakota.

Attorney for Defendant South Dakota State Republican Party, Don Peterson and the South Dakota Republican Central Committee.

PROCEEDINGS: The above-entitled matter came on for hearing on the 19th day of February, 1992, commencing at the hour of 8:15 a.m. via the telephone at the Federal Building, Sious Falls, South Dakota.

THE COURT: This is Judge Jones. I've set this as the time for hearing the case of Jack Trinsey versus Joyce Hazeltine, et al. I'm on a speaker phone with a court reporter, Kerry Masten. I think we have on the telephone Jack Trinsey.

MR. TRINSEY: Yes, sir, Your Honor. I am here from New Hampshire.

THE COURT: Okay. Counsel for Joyce Hazeltine.

MS. SUNDEM-WALD: Yes. I am Sherri Sundem-Wald, along with Charles McGuigan. We are also on a speaker phone. We are both assistant attorneys general. Would you like the spelling of our names?

THE COURT: No. we can get that. The State of South Dakota is appearing by who, or are you representing also the State of South Dakota?

MS. SUNDEM-WALD: Well, I guess we'll -- we represent both Joyce Hazeltine, the

Secretary of State, and the State of South Dakota.

THE COURT: Okay. The South Dakota State Republican Party and Don Peterson?

MR. HARMON: This is Tom Harmon, and we represent Don Peterson, the South Dakota State Republican Central Committee, whose bylaws are at issue here. And we are present.

THE COURT: Okay. And we have got Richard Tieszen then representing --

MR. HARMON: My name is Tom harmon, and I am Mr. Tieszen's partner. And Mr. Tieszen is over in the legislature.

THE COURT: He isn't on. Okay. Richard Tieszen isn't on the line then?

MR. HARMON: That's correct.

THE COURT: Okay. Good. I'm going to give each side ten minutes to present your arguments. Mr. Trinsey may proceed. Mr. Trinsey may proceed.

MR. TRINSEY: Yes, sir. Thank you, sir, for your kind cooperation. The issue here is a very simple issue, Your Honor. Either the -- either the constitution allows a member of the Republican Party a protected right to participate in the -- in a nomination process, or it doesn't. Secondly -- that's my -- that's the thrust of my theme. I'm saying that the First and Fourteenth Amendments override the state's rights on the Eleventh amendment, and also their rights under the First and Fourteenth Amendment, that the individuals' right comes first to vote for President of the United States.

The second tier of defense I have, Your Honor, is that the state is in error in accepting the certification of the South Dakota Republican State Committee because they are not the Republican -- South Dakota Republican Party. And the certification

they have with just President Bush on the ballot is not valid because their own rules require that the party, Republican Party of South Dakota, certify. The certification was done by the committee, and the committee is -- has a different interest than the rank and file party members. So there are conflicting interests, and therefore the ballot is null and void, Your Honor, and it should be struck down.

Basically I'm saying that -- I'm doing this also, Your Honor, as a class action for the rank and file Republicans, and also Democrats, in that the rules that are set up to access a ballot make it impossible for a rank and file Republican or Democrat to do throughout the country what you can do in New Hampshire. What you can do in New Hampshire is -- you have to be a qualified member of the party. And I have a record in my -- in my exhibits, Your Honor, Exhibit B,

which shows I have a 30 some year record continuously going all the way back to 1959 of voting in the Republican Party. So at the very least, I am a loyal American, loyal Republican.

My first right is to run in the New Hampshire primary, and they accept that because you need a thousand dollars and your certification that you are a member of the party. Thereafter, Your Honor, to go from -- from -- from New Hampshire to South Dakota, you have to comply with a number of rules; the first of which is you had to be in South Dakota I think last august the 2nd, and other rules. And if do you that in all 50 states, it's impossible to be there at the same time. And I was in South Dakota trying to set up my presidential campaign here to get organized, and the rules are basically impossible to comply with unless you are extremely wealthy.

And I'm saying that the case here is two-fold, Your Honor. To strike down the laws that prohibit the rank and file members of the party who do not have the resources and funds that the more elite members of the parties have to put up presidential candidates. I'm asking they be struck down. And my second cause, Your Honor, is that the ballot that was certified was certified by the Republican State Committee. And in the court record in the state case, which I attempted to go through and failed to get a stay, the Court -- the Court -- and Mr. Tieszen admitted that they did not represent the Republican Party, that they represent the committee and the chairman. And I say that that constitutes almost frau, Your Honor, because they have no more right to sell -- to make that certification than they have to sell the Brooklyn Bridge, Your Honor. They are simply a committee. They

are not the recognized party. They are a committee of members of the party, and those two entities are totally different entities, Your Honor. Thank up.

THE COURT: Okay. Miss Wald may be heard.

MS. SUNDEM-WALD: Thank you, Your Honor. At the outset maybe I would like to just begin by explaining the state's position throughout this entire matter which was presented in state court. As I assume the Court is aware, Mr. Trinsey brought a petition for alternative writ of mandamus against the state Republican Party as well as Secretary Hazeltine, asking that his name be placed on the Republican primary ballot. From the very beginning Joyce Hazeltine has taken the position that she has absolutely no authority to do what Mr. Trinsey has asked, and that is certify his name on the Republican Party, which, of course the Sixth

Circuit Court, Judge Anderson agreed.

And Mr. Trinsey has also filed a class -- or a lawsuit in Pennsylvania which I guess I'm not really certain of the status of that action at this point in time. In talking with the clerk of courts in Pennsylvania at approximately 10 to 4:00 our time yesterday, she said the -- the docketing clerk anyway said she had not received any type of motion from Mr. Trinsey attempting to transfer that case here to South Dakota. And we now also have this case in South Dakota, which Mr. Trinsey appears to be attempting to bring in a number of defendants which actually have not been named parties to this particular lawsuit. So I'm not really -- I have to be honest, I'm not really certain of the status of this lawsuit as compared to the lawsuit in Pennsylvania and in South Dakota.

But I guess I begin by first of all

arguing that Mr. Trinsey's action should be dismissed. This case has been tried and decided in state court, and the issue of preclusion certainly applies here. These -- all the issues that Mr. Trinsey is currently raising have been addressed in state court an denied, and he is attempting to use the district court as an appellate court. He is also bringing in parties that are not named, principally 48 other states, the Federal Election Commission. I believe Guam and Puerto Rico may also be named defendants in the Pennsylvania lawsuit.

He is also representing that there is some sort of certified class action going, and there certainly has been no certified class that I am aware of. Mr. Trinsey is asking for declaratory relief from this Court under 28 U.S.C. 1343 and 1331. However, I don't -- with all due respect, I'm not certain this Court has jurisdiction

to grant the relief Mr. Trinsey is asking for upon the claimed preclusion. This is not an appellate court, which Mr. Trinsey is attempting to use it for.

Furthermore, in Holmes versus Oldham, federal case, the Court held that a suit will not lie in federal court to enjoin an election pursuant to state law on the grounds that the same is unconstitutional. I don't believe that this Court has jurisdictional. I don't believe that this Court has jurisdictional under either 1343 or 1331 to grant the relief Mr. Trinsey is asking for.

THE COURT: Okay. Mr Harmon may be heard on behalf of Defendant Peterson.

MR. HARMON: Thank you, Your Honor. This is Tom Harmon. I would like to begin my remarks by putting the Court on notice that it is the position of the parties that I represent that this action is frivolous.

We have been through this entire matter. We are going to ask the Court to impose sanctions upon r. Trinsey. This matter has gone on, has assumed an inordinate amount of time, and there is absolutely no basis whatsoever, either in law or in fact, for the assertions that Mr. Trinsey wishes to make before this Court.

In the -- there are several problems. There are procedural problem s as Miss Wald indicated. We would join in those remarks. There has been no attempted service nor naming of the other states, the Federal Election Commission. There has been no addressing or opposing of security, and the action fails for that.

Mr. Trinsey appeared in South Dakota circuit Court. He attempted to intervene in an action that was begun by Mr. Buchanan. His intervention was denied. He then filed a new action seeking a writ of mandamus. A

hearing wa held on that. It was denied. He appealed to the South Dakota Supreme Court. The actions were consolidated. It was dismissed on the merits. There were specific findings made here.

Now, as to the procedure as to what has occurred, Mr. Trinsey made some large point that the South Dakota Republican Party did not certify. As with all most all of Mr. Trinsey's assertions, this one is not well found in fact. The South Dakota Republican Party is an entity. There -- there is no incorporation. There is no entity. The South Dakota Republican Party at a regularly called convention in 1978 adopted a constitution as required by the state laws of South Dakota. This constitution put certain authority in the -- in the State Republican Central Committee that is elected by the party at its annual convention. The bylaws have been adopted through this

process, have been presented to the party, and according to those bylaws, the primary election process for the republican Party in South Dakota was duly commenced.

Mr. Trinsey complains that the system is -- is too complex and difficult. Your Honor can take judicial notice of the fact that a mere four years ago under exactly the same rules there were some five or six Republican candidates who satisfied the requirement, and did appear upon the South Dakota Republican ballot. In order for Mr. Trinsey to be on the ballot, he, under the party rules, is required to show some modicum of support among the grassroots rank and file Republicans in the State of South Dakota.

Early in December local county caucuses were held throughout the state. In order for Mr. Trinsey to be on the Republican ballot, he was required to have three people who wished him to be president to show up at

least two of -- at least two of those caucuses, or in the case of Minnehahan County, three people at a single caucus. Had he done so, then those persons could have announced their allegiance to Mr. Trinsey, their support for Mr. Trinsey, and come to the South Dakota delegate selection convention which was held the last Saturday in December in Pierre. And if they had had two slates of three from two counties, his slate would have been placed on the ballot

In fact, Your Honor, no person showed up at any local caucus in support of Mr. Trinsey. No person showed up at the state caucus in support of Mr. Trinsey. In fact, Your Honor, Mr. Trinsey has never requested that he be certified as a candidate by anyone, neither the Secretary of State nor Don Peterson as chairman of the party. He has made absolutely no attempt whatever to -- to satisfy the rules.

He seeks rather by judicial fiat to be placed on the ballot. And failing that, apparently to be named president. He attacks the selection process in all of the states as being void and unconstitutional, and thus would be void ab initio, and since he commenced this action, he would be the only one left.

These findings about Mr. Trinsey not making any attempt to -- to be certified or to be requested to be certified are findings made on the record after a hearing by the state courts of South Dakota. Mr. Trinsey has available to him a petition for certiorari from the Supreme Court of South Dakota to the United States Supreme Court, and has made no attempt to follow it.

Turn briefly here to the law. The United States Supreme Court has had occasion to address the -- the issue that Mr. Trinsey frames here. And that is an individual's

right to appear upon a parties ballot. And every tie the United States Supreme Court has addressed this matter in cases such as Trashjian versus Republican Party of Connecticut, 479 U.S. 208, a 1986 case, Nader versus Schaffer -- excuse me. This is not a Supreme Court case. We have another Supreme Court case which is U.S. versus -- Mang Su Wong versus the San Francisco Democrat Committee, 489 U.S. 214, a 1989 case.

In both of these cases, building on yet another Supreme Court case, the Supreme Court has held that the party, political parties under the United States system have a first right of the people who are the members of this -- of the party. And that the party has a right to run its own affairs, and it also has the right to set up a system for selecting who will be this standard bearers.

The -- in the -- in the Tashjian case, it was a question of who could be placed upon the primary ballot. And the Supreme Court said, as it has said, as it has said every time, that parties can require a modicum of local grassroots support before someone is allowed to appear on the primary ballot.

These cases, Your Honor, need to be distinguished from ballot access cases for the presidential election. A completely different group of rules apply if Mr. Trinsey is seeking to be placed on South Dakota November's ballot for election to the Office of President. That is available to him. He needs to file a petition with the requisite number of signatures on it. Our low in South Dakota has been tested in the federal courts by the Libertarian Party in that regard, and passes the constitutional muster.

The cases to which Mr. Trinsey looks have

to do with general election ballot access. That is not what we are talking about here, Your Honor. We are talking about access to the South Dakota Republican primary ballot. And that is a system that requires that you show a modicum of grassroots support, which has not been done.

The cases show that the party's constitutional right to freedom so speech and freedom of association is sufficiently strong to overcome state laws. If South Dakota state laws allowed Mr. Trinsey to force his way onto the ballot without following the party rules, those laws would be unconstitutional. Now, I want to be fair here. We do not say that the South Dakota laws do allow Mr. Trinsey to force his way on the ballot in the manner in which he seeks, but if they did, they would be unconstitutional because the party's First Amendment rights of freedom of association,

freedom of speech, out weighing the individual right to be place upon the party's ballot.

So Mr. Trinsey here has a -- has a cause that he had belabored at length in the federal court of Pennsylvania, and the state courts of South Dakota, and now in the federal courts of South Dakota. What his motivation might be, I do not know. It has -- every judge that has looked at this, save one -- Mr. Trinsey's Pennsylvania case originally involved a Senate favor. Everyone else has ruled against him.

The precedent of the United State Supreme Court is absolutely clear that this action is groundless, and frivolous, much of the private litigants'. We would ask that it be dismissed with prejudice, and that sanction be imposed against Mr. Trinsey.

Thank you, Your Honor.

THE COURT: Mr. Trinsey may have -- Mr.

Trinsey may have two minutes for rebuttal.

MR. TRINSEY: Your Honor, for rebuttal there are corrections to be made. The South Dakota Supreme Court -- the district court suggested that I file a separate case, which I did. And then the Supreme Court of South Dakota refused to consolidate. They simply refused the stay, and the case is pending.

As far as the case in Pennsylvania and suing all the other 49 states besides -- not New Hampshire, that's in Philadelphia. And my intention is to answer that to Your Honor's court.

The issue here, Your Honor, is that Mr. Tieszen or Mr. Harmon, the people, the lawyers that were in charge of the Republican Party of South Dakota, are negligent in that they failed to make it a legal organization, and they instead for their own benefit made the committee a legal organization and then using the committee to

-- to put all of the South Dakota Republican Party -- Party members', rank and file members', wishes forward when they in fact do not have those wishes. They are in violation of South Dakota's own laws which say that the Republican Party of South Dakota must certify. And in the exhibits that I submitted to Your Honor, you will see clearly that the certification goes by the Republican Central Committee of South Dakota or the committee's name.

Your Honor, it's a very simply issue here. It's the birth right of every American to be a nominee of their party. The Republican Party, which I have been a member of for 30 years, Mr. Harmon wants to throw me out of that party, make me go into an independent, but -- and I have worked for the party and slugged for it for all of those years. I have been in -- all the bitter Novembers and spring days I have

given up for the Republican Party.

The issue here, Your Honor, is Jack Trinsey has a birth right to run for the nomination of his party on a national basis. They are using public monies for this primary, federal monies. All the across the county they are using it, whether that right exists as a protected right under the constitution or it doesn't That's my -- that's my single plea to Your Honor, to let the Republican rank and file, and also the Democratic rank and file, access the ballot an let an honest election, which took place in New Hampshire, let -- let the people -- the more people will get to know somebody, the more they will vote, and that is America.

If you kill Jack Trinsey's rights, Your Honor, which you can easily do because I live the court, whatever the Court is -- the Court can take person's life, they can

certainly take his vote. but I ask your Honor to free the rank and file members to go across this country and appear like the people that did all throughout the country here. They are a small voice, but they are a voice. And let the people that vote in South Dakota and all across this country start to case because evidently even President Bush in this entire election here in New Hampshire only received about a third more or less of the votes that were cast.

So there is pain in this country, Your Honor, and there are patriots of -- 55 or more patriots from all across this country tried to show up here, and they all want to come and go to the next game and the next game. There isn't a team in the Super bowl -- in the NFL that loses the first game that is wiped out of the Super Bowl.

And it takes time. A few are willing to do it. If they are willing to sacrifice,

they should have that opportunity, Your Honor. So in the first instance I ask Your Honor to rule on the birthright of every American who is a member of the Republican and Democratic parties. Their birth right is to run for the nomination. You can't force them to make -- be in 49 states at the same time and raise all kinds of money. Their brains and their heart are the criteria, and their loyalty to this country are the criteria to go before the members of the party for nomination.

Secondly, Your Hone, there by Mr. Tieszen's -- Mr. Harmon's own admission, the Republican Party of South Dakota did not certify, and that' what South Dakota rules say. They must certify. They have failed to certify. And the present ballot that has President Bush's Name on it is not proper, it's not valid It's a fraudulent Document, Your Honor.

And I just give you my good faith as a loyal American. I am doing this in good faith and I'm doing it for myself to serve this country, and I'm doing it on behalf of all the rank and file Republican and Democratic people across this country who want to come forward and attempt to help this county. And let the voters decide.

THE COURT: Mr. Trinsey, do you have a political organization in South Dakota?

MR. TRINSEY: I only have myself. I used -- if I could get on the ballot last December --

THE COURT: Do you have a slate of candidates or delegates on your behalf?

MR. TRINSEY: I have nobody, Your Honor, because I did all that up here first. I just didn't have the money to go there. I waned to go from New Hampshire and get my experience, and then go to South Dakota and go to each states. And either I'm going to

start to emerge as being a viable candidate when you go into several states, or you drop by the wayside. But I will have exercised my birthright of freedom to try.

THE COURT: Okay. I've received and reviewed the documents in this case. It's clear that this is a case where if the temporary relief is granted and Mr. Trinsey is ordered to be placed on the ballot, then he will have won the case. On the other hand, if the primary elections are stayed, then this would create a substantial burden on all of the other candidates who have complied with the rules to be placed on the ballot.

It's the -- it's the Court's view that the conditions to be placed on the ballot are relatively modest and easy to comply with. Many people have done so. In the primary elections the -- we do not have direct election of a president. The voters

in South Dakota will be asked to elect delegates to the national convention. And those delegates will select the -- a Republican nominee.

It's the Court's view that if a -- a proposed candidate can't find anybody that will be on their slate of delegates, they certainly are not a viable candidate for President of the United States from -- with -- from South Dakota. It's the -- it's the court's view that Mr. Trinsey's chance of success on the merits would be nonexistent, and that Mr. Trinsey has not shown any basis for a temporary restraining order, preliminary injunction, mandamus or an emergency stay, and the motions by the plaintiff are all denied.

It's the Court's view that the case will become moot on February 25th, and the Court therefore will grant the defendants' motion to dismiss.

The Court will enter an order consistent with the oral decision just announce. Thank you all for participating.

(End of proceedings.)

STATE OF SOUTH DAKOTA)
: SS CERTIFICATION
COUNTY OF MINNEHAHA)

I, Kerry Lange, Court Reporter in the above-named County and State, certify that the above-entitled proceedings were reported by me, and the foregoing Pages 1 -18, inclusive, are a true and correct transcript of my stenotype notes.

Dated at Sioux Falls, South Dakota, this 24th day of February, 1992.

_____
Kerry Lange

APPENDIX IV

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

Jack Trinsey, a/k/a John S. Trinsey, Jr., Plaintiff,	)	
vs.	)	CIV92-3005
Joyce Hazeltine, Secretary of State, of South Dakota, State of South Dakota South Dakota Republican Party, and, Don Peterson, Chairman of the South Dakota State Republican Party and The South Dakota Republican Central Committee, Defendants.	)	JUDGMENT OF DISMISSAL

The Court having entered its Order of Dismissal, now, therefore, IT IS ORDERED AND ADJUDGED that

(1) The Plaintiff's motions for emergency stay, temporary restraining order, preliminary injunction and mandamus be and the same are hereby denied;

~~KS~~ SO

(2) The action is dismissed on the merits with prejudice.

Dated Sioux Falls, South Dakota, this 19th Day of February, 1992.

_____
WILLIAM F. CLAYTON, Clerk

BY: _____
Deputy

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